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De Sol Corp., Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(Oakland Division)

De Sol Corp., Inc., a California corporation,

Plaintiff,

vs.

Vegas Connection, Inc., a California
corporation; Omar Awad, an individual;
Jahangir Shahriari, an individual,

Defendants.

Case No. C07 4107 SBA

**PLAINTIFFS' OBJECTIONS TO
DECLARATION OF BART M. BOTTA IN
SUPPORT OF DEFENDANTS' MOTION
TO TRANSFER CASE FOR IMPROPER
VENUE**

**Hearing Date: December 18, 2007
Time: 1:00 p.m.
Dept.: 3**

Plaintiff hereby formally objects to the purported evidence submitted to the Court in support of Defendants' Motion to Transfer Case for Improper Venue. The declaration of Bart M. Botta in support of Defendants' motion does not constitute admissible evidence.

DEFENDANTS' EVIDENCE

OBJECTION(S)

Declaration of Bart M. Botta in Support of
Defendants' Motion to Transfer Case for
Improper Venue ("Decl. of Botta")

Irrelevant. The entire declaration is irrelevant to the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.

1 2 3 4 5	Decl. of Botta ¶ 1, Page 1, Lines 21-26	Irrelevant. The fact that Mr. Botta is an attorney and represents different parties in a different action in this Court has no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.
6 7 8 9 10 11 12	Decl. of Botta ¶ 2, Page 1, Lines 27-28, Page 2, Lines 1-2.	Lacks foundation. Mr. Botta offers no support for his claim that he has personal knowledge of the facts at issue concerning Vegas Connection, Inc., Omar Awad, Jahangir Shahriari, and De Sol Corp., Inc. Irrelevant. The fact that Mr. Botta has practiced PACA law for 14 years has no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.
13 14 15 16 17 18 19 20 21 22 23 24 25 26	Decl. of Botta ¶ 3, Page 2, Lines 3-10	Lacks foundation. Mr. Botta offers no support for his claim that he has personal knowledge of the facts at issue concerning Vegas Connection, Inc., Omar Awad, Jahangir Shahriari, and De Sol Corp., Inc. Argumentative and conclusory. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u> , 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u> , 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.) Irrelevant. Counsel's legal arguments about consolidation of two unrelated cases has no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.

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2	Decl. of Botta ¶ 4, Page 2, Lines 11-17.	Lacks foundation. Mr. Botta offers no support for his claim that he has personal knowledge of the facts at issue concerning Vegas Connection, Inc., Omar Awad, Jahangir Shahriari, and De Sol Corp., Inc.
3		Argumentative and conclusory. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u> , 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u> , 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.)
4		Irrelevant. Counsel's <i>legal arguments</i> about consolidation of two unrelated cases have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.
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16	Decl. of Botta ¶ 5, Page 2, Lines 18-27	Lacks foundation. Mr. Botta offers no support for his claim that he has personal knowledge of the facts at issue concerning Vegas Connection, Inc., Omar Awad, Jahangir Shahriari, and De Sol Corp., Inc.
17		Argumentative and conclusory. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u> , 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u> , 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.)
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	Irrelevant. Counsel's <i>legal arguments</i> about consolidation of two unrelated cases have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.
Decl. of Botta ¶ 6, Page 3, Lines 1-12	<p>Lacks foundation. Mr. Botta offers no support for his claim that he has personal knowledge of the facts at issue concerning Vegas Connection, Inc., Omar Awad, Jahangir Shahriari, and De Sol Corp., Inc.</p> <p>Argumentative and conclusory. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u>, 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u>, 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.)</p> <p>Irrelevant. Counsel's <i>legal arguments</i> about consolidation of two unrelated cases, as well as his unfounded and baseless accusations about "fraudulent acts" have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.</p>
Decl. of Botta ¶ 7, Page 3, Lines 13-19.	<p>Lacks foundation. Mr. Botta offers no support for his claim that he has personal knowledge of the facts at issue concerning Vegas Connection, Inc., Omar Awad, Jahangir Shahriari, and De Sol Corp., Inc.</p> <p>Argumentative and conclusory. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland,</u></p>

	<p><u>N.V. v. Eyes of the Beholder Ltd.</u>, 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u>, 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.)</p> <p>Irrelevant. Counsel's <i>legal arguments</i> about consolidation of two unrelated cases have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.</p>
Decl. of Botta, Exhibit 1	<p>Irrelevant. Counsel's <i>legal arguments</i> contained within this Exhibit which relate exclusively to an unrelated case involving unrelated parties have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.</p> <p>Argumentative and conclusory. The Exhibit also contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u>, 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u>, 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.)</p>

Plaintiff therefore requests that the Court not consider any of the objectionable "evidence" submitted by Defendants, as set forth above.

DATED: November 27, 2007

GREENE, CHAUVEL, DESCALSO & MINOLETTI

BY: _____

RONALD C. CHAUVEL
BRANDON L. REEVES
Attorneys for Plaintiff